THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17271 OF 2004

ORDER:

This Writ Petition is filed seeking a declaration that the alleged action of the respondents in taking steps to dispossess the petitioners from the lands situated in Sy.Nos.562/2 and 561/2 of Thimmasamudram village, Naguluppalapadu Mandal, Prakasam District as arbitrary and illegal.

The petitioners, five in number, claim to be the tenants in respect of different extents of land situated in Sy.Nos.562/2 and 561/1 of Thimmasamudram village. Admittedly the said land belongs to Sri Gorantla Venkanna Trust, Thimmasamudram. It is claimed that the lease in their favour is valid up to 2006-07 by virtue of the proceedings dated 20.08.2004 whereunder the lease period was extended from 2004-05 to 2006-07. It is alleged that on 20.09.2004, the respondent-authorities came to the land and demanded the petitioners to vacate the land in question forthwith and to hand over the possession stating that the leasehold rights of the land would be put to public auction on 28.09.2004. Aggrieved by the said action of the respondents, this Writ Petition is field contending that since the lease in their favour is subsisting the respondents ought not to have put the leasehold rights to public auction.

On behalf of the 3rd respondent-Institution, the Executive Officer, filed a counter-affidavit stating that in terms of the Rules framed under G.O.Ms.No.379, dated 11.3.2003, the petitioners were served with notices directing to handover the possession within 30 days. Challenging the same the petitioners filed W.P.Nos.14656; 14647 and 14660 of 2003. This Court disposed of the said Writ Petitions with a direction to the petitioners to approach the competent authority for determination of their status as landless poor. Accordingly, the petitioners filed applications before the Assistant Commissioner of Endowments, Ongole. However, by order dated 30.12.2003, the Assistant Commissioner of Endowments, rejected the claim of the petitioners, holding that they are not landless poor. Therefore, the 3rd respondent resumed the land in their possession. While so, the then Executive

Officer sent proposal for extension of lease in favour of the petitioners, in pursuance of which, the Commissioner of Endowments by proceedings dated 20.08.2004 approved the proposal of the Executive Officer for extension of lease in favour of sitting tenants, subject to the condition that the petitioners fulfill the conditions imposed in the previous auction notification. However, the petitioners failed to fulfill the said conditions. Hence the 3rd respondent did not execute the lease deed in their favour, and consequently the land in question had not been handed over to them. That apart, the 1st respondent by a subsequent order dated 4.10.2004 cancelled the approval of the lease in favour of the petitioners. Hence, the petitioners are not entitled to claim any right in respect of the said land and the 3rd respondent has rightly proposed to put the leasehold rights to auction.

One Gorantla Santhayya, Chairman of Sri Gorantla Venkanna Trust, Thimmasamudram, who got himself impleaded as respondent No.4 filed counter-affidavit stating that the then Executive Officer by name Hari Satyanarayana Murthy in collusion with the writ petitioners, submitted a report to the Commissioner of Endowments vide letter dated 13.7.2004 proposing extension of lease in favour of the petitioners. The said proposal was sent without the knowledge of the Trust Board. On the basis of the said proposal, the Commissioner of Endowments vide proceedings dated 20.08.2004 approved the extension of lease in favour of the writ petitioners. Subsequently, there was a change in the office of the Executive Officer and the new Executive Officer took charge on 16.09.2004. Immediately thereafter the Trust Board met on 20.09.2004 and a decision was taken not to grant lease in favour the writ petitioners since they are not eligible. It was also resolved that the action of the then Executive Officer in recommending extension of the lease in favour of the petitioners for the period from 2004-05 to 2006-07 without putting the same to public auction, was illegal. It is also alleged that the petitioners 4 and 5 are not the tenants at all and that none of the petitioners is in possession of the land in question as on today. It is also stated that having considered all the aforesaid facts, the Executive Officer addressed a letter dated 20.09.2004 requesting the Commissioner of Endowments to cancel the earlier proposal dated 20.08.2004. Accordingly, the Commissioner of Endowments by order dated 4.10.2004, cancelled the approval of the lease in favour of the petitioners.

I have heard the learned counsel for both the parties and perused the material on

record.

Admittedly, the petitioners herein earlier filed W.P.Nos. 14656; 14647 and 14660 of 2003, which were disposed of granting them liberty to make applications before the Assistant Commissioner of Endowments for declaration of their status as landless poor. This Court also directed that till such enquiry is completed and appropriate orders are passed by the Commissioner of Endowments and till the expiry of 30 days time prescribed for preferring an appeal under Rule 4 of the Rules, status quo as to the possession of the land in question shall be maintained, subject to payment of rents payable regularly. It is not in dispute that the claim made by the petitioners was rejected by the Assistant Commissioner of Endowments by order dated 30.12.2003. Thus, it is clear that the writ petitioners are not landless poor within the meaning of Explanation to Section 82 (2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short “the Act”), and therefore, they are not entitled to continue in possession. However, the petitioners contend that their request for extension of lease was accepted by the Executive Officer of the Institution and the same was approved by the Commissioner of Endowments by proceedings dated 20.08.2004, subject to satisfying the conditions imposed in the previous auction. The petitioners contend that they have complied with all the required conditions and, therefore, by virtue of the order dated 20.08.2004, there is a valid lease in their entitled favour up to the year 2006-07.

It is to be noted that as per the A.P. Charitable and Hindu Religious Institutions (lease of Agricultural Lands) Rules, 2003 (for short “the Rules”), made under G.O.Ms.No.379, Revenue Endowment-I, dated 11.3.2003, all leases of the agricultural lands shall be only by public auction. It is true that the proviso to Rule 7 empowers the competent authority to permit the lease otherwise than by public auction, but the same can be done only, if he satisfies for reasons to be recorded in writing that such procedure is necessary and in the interest of the Institution/Endowment.

It is true that the Commissioner of Endowments, being the competent authority, in appropriate cases may permit the lease otherwise than by public auction, however, the 1st respondent while granting extension of lease vide order dated 20.08.2004, failed to record any reasons expressing his satisfaction that such extension is necessary and in the interest of the Institution. Thus, on the face of it, the order of extension dated 20.08.2004 was not in accordance with law. As a matter

of fact, the said order dated 20.08.2004 approving the extension of lease in favour of the petitioners has been subsequently set aside by the Commissioner of Endowments by order dated 4.10.2004 and W.P.No.19452 of 2005 filed by the petitioners questioning the said order has been dismissed today by a separate order.

The learned counsel appearing for the 3rd respondent as well as the learned Government Pleader vehemently contended that even the order granting approval of extension of lease was passed only subject to the condition that the petitioners satisfy the conditions imposed in the previous auction and the petitioners failed to satisfy the same, they have not been put in possession. According to the learned counsel for the respondents, the land was resumed long back soon after the orders of the Assistant Commissioner of Endowments holding that the petitioners are not landless poor. Nothing has been placed before this Court by the petitioners to substantiate their claim that they have complied with the conditions imposed under the order dated 20.08.2004 and that they have been continuing in possession of the land in question as of today.

So far as the issue whether the respondents are justified in proposing to conduct fresh auction in respect of the leasehold rights of the land in question is concerned, as already expressed above, since the extension of lease in favour of the writ petitioners who are not landless poor is found to be not in accordance with law, and at any rate, since the said order has already been cancelled by the Commissioner of Endowments by order dated 4.10.2004, the respondents are justified in proposing to conduct fresh auction in respect of the leasehold rights of the land in question. The said action is in accordance with law and does not suffer from any infirmity warranting interference by this Court.

The Writ Petition is accordingly dismissed. No costs.

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(G. ROHINI, J.)

December 15, 2005.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17271 OF 2004

15th December, 2005.

Between:

Tella Narayana and five others. .. Petitioners.

And

The Commissioner of Endowments,

Government of A.P., Tilak Road,

Hyderabad and three others. .. Respondents.